

REMARKS

In the Office Action, the Examiner rejected claims 3, 9, 19, and 27 under 35 U.S.C. § 112, second paragraph as failing to particularly point out and distinctly claim the invention; rejected claims 19, 21-23, and 26 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,018,720 to Fujimoto et al. ("*Fujimoto*"); rejected claims 27-30 under 35 U.S.C. § 103(a) as being unpatentable over *Fujimoto* in view of Official Notice; rejected claims 32 and 33 under 35 U.S.C. § 103(a) as being unpatentable over *Fujimoto* in view of U.S. Patent No. 6,834,348 to Tagawa et al. ("*Tagawa*"); and rejected claims 1, 3, 5-7, 9-13, and 15-18 under 35 U.S.C. § 103(a) as being unpatentable over *Fujimoto* in view of Office Notice, and further in view of *Tagawa*.

By this amendment, Applicants amend claims 1, 5, 19, and 21-23, and add new claims 126 and 127. Claims 1, 3, 5-7, 9-13, 15-19, 21-23, 26-30, 32, 33, 126, and 127 are pending.

Applicants respectfully traverse the rejection of claims 3, 9, 19, and 27 under 35 U.S.C. § 112, second paragraph.

The phrase "investment ticket," as used in the claims, is clear and definite. The phrase "investment ticket" is extensively discussed in Applicants' specification, for example at ¶ [0083] of Applicants' published application (U.S. 2002/0165811). Furthermore, amended claims 1 and 19 now recite "wherein the investment ticket is a financial instrument with monetary value."

The phrase "retaining rate," as used in the claims, is clear and definite. The phrase "retaining rate" is extensively discussed in Applicants' specification, for example at ¶ [0199]-¶ [0201] of Applicants' published application.

For at least these reasons claims 3, 9, 19, and 27 particularly point out and distinctly claim the invention.

Applicants respectfully traverse the rejection of claims 19, 21-23, and 26 under 35 U.S.C. § 102(e) as being anticipated by *Fujimoto*. *Fujimoto* fails to disclose the subject matter of the claims.

Independent claim 19 recites a data transmitting/receiving method, including “storing investment target data of an investment target,” and “transmitting . . . price data of an investment ticket of the investment target data,” “wherein the investment ticket is a financial instrument with monetary value, the monetary value depending on a performance of the investment target.” *Fujimoto* fails to disclose at least the claimed “investment ticket.”

With reference to Figure 1, *Fujimoto* discloses software deliverers 1, 2, and 3, delivering software to shop 4. Purchaser 15 places record media 13 into write machine 25, so that computer 24 can write software onto record media 13. *Fujimoto*, col. 9, lines 40-43. Computer 24 also reads account information from record media 13 and sends the account information to software deliverers 1, 2, and 3. *Id.* at lines 48-52. Software deliverers 1, 2, and 3 debit an account of the purchaser using the account information. *Id.* at lines 58-61.

Fujimoto’s purchased software does not correspond to the claimed “investment ticket.” *Fujimoto*’s purchased software is not “a financial instrument with monetary value, the monetary value depending on a performance of the investment target,” as recited in claim 19. For at least these reasons, *Fujimoto* fails to anticipate claim 19. Claims 21-23, and 26 depend from claim 19.

Applicants respectfully traverse the rejection of claims 27-30 under 35 U.S.C. § 103(a) as being unpatentable over *Fujimoto* in view of Official Notice. The MPEP addresses Official Notice:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. . . . If applicant adequately traverses the examiner's assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. MPEP 2144.03(c) (emphasis added).

Applicants' submit that the claimed "retaining rate" of claims 27-30 is not common knowledge or well known in the art. Accordingly, Applicants request documentary evidence of the claimed "retaining rate" in the subsequent Office Action.

Furthermore, claims 27-30 depend from claim 19, and *Fujimoto* fails to disclose or suggest the subject matter of claim 19. Official Notice does not cure the deficiencies of *Fujimoto*. Official Notice does not disclose or suggest "wherein the investment ticket is a financial instrument with monetary value, the monetary value depending on a performance of the investment target," as recited in claim 19. Accordingly, *Fujimoto* and Official Notice do not disclose or suggest the subject matter or claims 27-30.

Applicants respectfully traverse the rejection of claims 32 and 33 under 35 U.S.C. § 103(a) as being unpatentable over *Fujimoto* in view of *Tagawa*.

Claims 32 and 33 depend from claim 19, and *Fujimoto* fails to disclose or suggest the subject matter of claim 19. *Tagawa* does not cure the deficiencies of *Fujimoto*. *Tagawa* does not disclose "wherein the investment ticket is a financial instrument with monetary value, the monetary value depending on a performance of the

investment target," as recited in claim 19. Accordingly, *Fujimoto* and *Tagawa* do not disclose or suggest the subject matter of claims 32 and 33.

Applicants respectfully traverse the rejection of claims 1, 3, 5-7, 9-13, and 15-18 under 35 U.S.C. § 103(a) as being unpatentable over *Fujimoto* in view of Office Notice, and further in view of *Tagawa*.

Claim 1, while of different scope than claim 19, distinguishes over *Fujimoto*, Official Notice, and *Tagawa* for at least the same reasons as claim 19. Claims 3, 5-7, 9-13, and 15-18 depend from claim 1.

New claims 126 and 127 are allowable over *Fujimoto*, Official Notice, and *Tagawa* at least due to their dependence from claims 1 and 19, respectively.

In view of the foregoing, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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